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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
TACOMA DIVISION

9 TOM WELTCHEK, an individual,
10
11 Plaintiff,

12 v.

13 LACAMAS SWIM AND FITNESS CLUB,
14 INC., a Washington corporation

15 Defendants.

CASE NO.

COMPLAINT FOR DAMAGES

JURY TRIAL REQUESTED

16 Plaintiff Tom Weltchek (“Plaintiff” or “Mr. Weltchek”), by and through his undersigned
17 attorneys, alleges as follows for his Complaint:

18 **I. PARTIES**

19 1.1 Plaintiff Tom Weltchek is an individual.

20 1.2 Defendant Lacamas Swim and Fitness Club, Inc. is a Washington corporation that
21 operates a for-profit fitness club in Camas, Clark County, Washington, called Lacamas Swim
22 and Sport (“LSS”). LSS membership is open to the public with no restrictions other than the
23 requirement to pay the required costs of membership. LSS offers various membership options
24 and payment plans. LSS offers its members various fitness programs and services, including
25 personal and small group training, a “Kid’s Club”, a “Triathlon Tribe”, various seniors
26 programs, and an aquatics program.

27 **II. JURISDICTION AND VENUE**

2.1 The acts and omissions subjecting LSS to liability occurred in Washington State. This Court has jurisdiction over the Defendant and this matter pursuant to 28 U.S.C. § 1331.

2.2 Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(2) because the acts or omissions complained of occurred in this district.

III. FACTS

3.1 LSS offers its members various aquatics programs, including group and private swimming lessons for individuals of various ages. As part of the LSS aquatics program, LSS offers a competitive youth swim team program, called The Headhunters. The Headhunters swim at competitive meets throughout the Western United States. LSS is subject to the overtime pay requirements of the Fair Labor Standards Act, 29 U.S.C. §§ 201, *et seq.* (“FLSA”). LSS is an enterprise engaged in interstate commerce and its employees are engaged in interstate commerce. Its swim teams regularly engage in interstate travel for competitions. Upon information and belief, LSS members cross state lines to participate in club activities and/or to visit the club. Upon information and belief, LSS has had and does have annual gross sales volume of not less than \$500,000.

3.2 LSS employed Mr. Weltchek as a swim coach from November 2014 to March 2016.

3.3 Mr. Weltchek’s primary duty as a swim coach was to coach The Headhunters swim team. He taught members the ins and outs of competitive swimming, such as breathing technique, strokes, race day preparation, and race strategy.

3.4 Mr. Weltchek was not paid by the hour. Instead, he received a set salary for each week of work, regardless of the number of hours he actually worked. At the outset of his employment, Mr. Weltchek’s salary was \$625 per week. In or about March 2015, Mr. Weltchek received a raise to approximately \$729.17 per week.

3.5 Mr. Weltchek was expected to, and regularly did, work more than 40 hours per week. When he was hired, LSS’s owner and his immediate supervisor, Denise Croucher, told

1 Mr. Weltchek that the position was full-time and that he should expect to work between 40 and
2 48 hours per week. Mr. Weltchek actually worked more hours than that on average.

3 3.6 Mr. Weltcheck was not paid 1.5 times his regular rate for all hours worked in
4 excess of 40 hours per week. In fact, he was paid nothing for hours worked in excess of 40 hours
5 per week.

6 **IV. FIRST CAUSE OF ACTION**
7 **(FAILURE TO PAY OVERTIME IN VIOLATION OF THE FLSA)**
8 **(29 U.S.C. § 207)**

9 4.1 Mr. Weltchek incorporates each of the paragraphs above.

10 4.2 LSS violated the FLSA by failing to pay Mr. Weltchek overtime compensation as
11 required by 29 U.S.C. § 207(a)(1) and § 207(e).

12 4.3 LSS's violations were willful.

13 **V. SECOND CAUSE OF ACTION**
14 **(FAILURE TO PAY OVERTIME IN VIOLATION OF WASHINGTON LAW)**
15 **(RCW 49.46.130)**

16 5.1 Mr. Weltchek incorporates each of the paragraphs above.

17 5.2 LSS violated Washington law by failing to pay Mr. Weltchek overtime
18 compensation as required by RCW 49.46.130(1) and

19 5.3 LSS's violations were willful.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiff Tom Weltchek prays for:

- 22 1. Trial by jury;
- 23 2. All earned but unpaid overtime, pursuant to 29 U.S.C. 216(b) and RCW 49.46.130;
- 24 and
- 25 3. An equal amount as liquidated damages, pursuant to 29 U.S.C. 216(b) and RCW
- 26 49.52.070; and
- 27 4. His attorneys' fees and costs, pursuant to 29 U.S.C. 216(b) and RCW 49.52.070; and
- 28

5. Pre-judgment and post-judgment interest at the highest legal rate; and
6. Such other and further relief as this Court deems just.

Dated: January 4th, 2017

/s/ Peter Stutheit

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